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I. W. W. INJUNCTION STANDS; RULES COURT

(Continued From Page One.)

should it be compelled to proceed by injunction when all that it is trying to do is to exercise the powers for which it exists, as set forth in Article I of its constitution:

"Government is instituted for the protection, security and benefit of the people."

It has courts as well as legislatures in which to proceed to accomplish the purposes of its existence; and those courts have powers which do not depend upon legislative action, one of which is jurisdiction in all cases in equity. The state is a legal entity. All other legal entities can proceed in courts of equity to obtain equitable relief; why not the state? Injunction is an equitable remedy.

The paramount duty of the government is to protect these rights. Summary of Charge.

At this point attention must be called to the rule that on demurrer all the well pleaded statements of the complaint are admitted to be facts for the purpose of disposing of the demurrer, there being no other facts before the court. This complaint contains the following charges against the defendants:

Intimidation and coercion. Interference with property rights. Conspiracy to seize property.

"Reasonable injury to inhabitants of the state."

Irreparable injury to communities within the state.

Irreparable injury to the state.

Conspiracy to overthrow the state government.

Whether these charges are true is not before the court on demurrer. The question is—If true—is the state within its rights in seeking to enjoin them?

The answer is that it is not only within its rights but that it is exercising a duty imposed by its constitution. If it does not exist or the protection of the inalienable rights of its people, what does it exist for? When these rights are assailed, not by one man or a few, but by a body of men acting together and throughout the state, it is ob-

vious that they can be protected only by the intervention of the state itself.

It was suggested that the state may not here be acting actually for the benefit of its people in that it may be acting against a majority of them. This is a question not yet before the court since the facts appear otherwise on the face of the complaint.

Pound of Prevention.

It was also argued that acts of violence, intimidation and coercion should be set out in the complaint in detail. It appears that under the circumstances of the suit such acts are more threatened than numerous; but it is one of the great provinces of equity to prevent harmful acts. It is another instance of prevention being far more satisfactory than cure; and there could be no cure for some of the things threatened to be done. The state has the right of self preservation and should not hesitate to exercise that right.

Another argument was thus expressed—"equity will not exercise its powers for the purpose of enforcing or restraining criminal laws or acts." This is ingeniously worded, but it means two very different things. Equity will not exercise its powers to enforce criminal laws; equity will not exercise its powers to restrain criminal acts. The first is true, because the enforcement of criminal laws involves trial by jury which has no place in equity practice except as a mere incident.

The other is not true. Equity will move to restrain many acts that are either criminal or border on criminality. It can seldom act in time to prevent a criminal act, and it will not exercise its powers when the plaintiff has a full, speedy and adequate remedy at law. It often acts to prevent trespass, violation of property rights, and to abate nuisances. The criminality of acts threatened have little to do with the powers of equity. Irreparable injury is generally the result of acts either criminal or quasi-criminal; but equity intervenes to prevent it. In the case also appears another branch of equity jurisprudence, the avoidance of a multiplicity of suits.

Viewing the case as a whole, disclosed by the complaint, it is of such a character as to justify the state, on behalf of its people and for its own preservation, to proceed in equity for injunctive relief.

Several incidental questions must now be disposed of. The defendants insist that strikes are lawful. This is correct; strikes by lawful, organized bodies of workmen are permissible under the law. No one probably questions that. But this does not mean that strikes by unorganized bodies of men, or for political purposes, or to subvert the government are lawful. It seems that strikes themselves may be perfectly lawful and many of them are; but a strike that becomes something other than what is well known as a strike, to which the strike itself is a mere incident, often also becomes unlawful.

The question finally to be discussed here is freedom of speech. Holding the complaint to be sufficient on demurrer does not obviate the necessity of giving full consideration to questions raised in connection with it bearing upon the restraining order in force. It is true that the order to show cause has not yet been heard, all the proceedings so far discussed having been upon demurrers and motions. I might wait until the order to show cause comes before the court, but to avoid misunderstanding and to do what I consider my exact duty in the situation that has been presented, I consider it proper to pass upon a question that deals to some extent with the restraining order.

The constitution of the United States contains the following language:

"Congress shall make no law... abridging the freedom of speech, or of the press or the right of the people peaceably to assemble..."

Where this refers to people it no doubt means people of the United States, not unnaturalized persons, foreigners. They have no rights in this country except those secured to them by treaty and those to which our civilization entitled them.

The constitution of Nevada contains the following:

"Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge liberty of speech or of the press."

"The people shall have the right freely to assemble together to consult for the common good..."

The right to freely speak, write and publish sentiments is secured but only to citizens, which means citizens of this state; and "sentiments" does not include threats, false statements, or anything else beyond what is within its definition as contained in standard dictionaries. Liberty of the press cannot be stretched to include documents or printed matter turned out by individuals or groups of individuals who are in no wise members of the press in the usual and ordinary understanding of that term.

"Freedom of speech" undoubtedly means, under nearly every legal authority on that subject, that a citizen of this country or state may say orally what he pleases, but is responsible for the abuse of this right which means that if he says that which is unlawful, he may be punished by criminal proceedings or held to account civilly for injury that he may cause. An injunction cannot be used to prevent a citizen from saying orally what he pleases, but if what he says amounts to coercion or intimidation, he may be punished for that. It should be well noted here that this right extends only to citizens of the state, which means as well only citizens of the United States. It is not a privilege extended to any unnaturalized person.

In any respect that the present restraining order limits freedom of speech as above defined and circumscribed, or the right of the people, which means citizens of this state, to assemble together to consult for the common good, it is hereby modified. In other respects it will remain in force until the hearing upon the order to show cause shall have been concluded.

The demurrer to the second amended complaint is overruled and fifteen days are allowed for answer.

HOPS GOING UP.

SACRAMENTO, Oct. 23.—Predictions of \$1 a pound price for Sacramento valley hops before the close of the year will probably be fulfilled. The price is now 77½ cents, having increased from 60 cents within the past few weeks.

It looks from this side of the Atlantic as though most of the nations of Europe were in favor of the league of nations in principle, but opposed to it in practice.—Boston, Shoe & Leather Reporter.

NOTARY PUBLIC—John O. Martin, 864, or 507 Brougher ave.

GRAPE CROP SOLD.

SACRAMENTO, Calif., Oct. 23.—Favorable weather conditions will save practically the entire grape crop of the Sacramento valley despite the car shortage, leading growers report.

Another reason for the high cost of living is that we no longer make Willie's pants out of dad's old ones.—Greenville S. C., Piedmont.

That threatened strike of Baptist ministers may be called off since John D. Rockefeller has just handed them \$2,000,000.—Nashville Tennessean.

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MEETING OF STOCKHOLDERS

Notice is hereby given, that the annual meeting of stockholders of the Gold Hill Nevada Gold Mining Company of Tonopah, will be held at Casino Hall No. 273 Golden Gate ave. San Francisco, Calif., on the 27th day of October, 1919, at 8 p. m. for the purpose of electing a board of directors for the ensuing year and for the transaction of any business that may lawfully be brought before it.

(Signed) WILLIAM T. MORAN,
President.
EDW. M. O'REILLY,
Secretary.

Adv-013-23

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